



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,857	11/21/2006	Takehiko Yamashita	043887-0192	9389

53080 7590 05/27/2008
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

EXAMINER

LISTVOYB, GREGORY

ART UNIT	PAPER NUMBER
----------	--------------

1796

MAIL DATE	DELIVERY MODE
-----------	---------------

05/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/572,857	Applicant(s) YAMASHITA ET AL.	
	Examiner GREGORY LISTVOYB	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mohanty et al (US 2003/0216496) herein Mohanty or Ohme et al (US 2004/024803) herein Ohme in combination with Fumitomo (JP2002-241566) herein Fumitomo or Gilman et al (Fire retardant additives for polymeric materials 1. Char formation from silica gel –potassium carbonate. Thirteenth meeting of the UJNR panel on fire research and safety, march 13-20, 1996, vol 2, NIST, 1997), herein Gilman (necessitated by Amendment).

Mohanty discloses a resin composition comprising polylactic acid (Abstract) or lactic acid copolymer (see line 0023), and a flame retardancy-imparting component (see line 0054), meeting the limitations of Claims 8 and 9.

Regarding Claim 10, Mohanty discloses Phosphorous compounds and various inorganic compounds as flame retardants.

In reference to Claims 13-15, Mohanty teaches melt-kneading process using of the above system (see line 0113), with following compression molding of the composition (see line 0115) and producing a molded article.

Ohme teaches polylactic discloses a resin composition comprising polylactic acid (Abstract), polybutylene succinate (see line 0091) and a bromine or phosphorus containing flame retardancy-imparting component (see line 0173).

Ohme teaches melt-kneading process using of the above system (see line 0018), with following compression molding of the composition (see Abstract and line 0018) and producing a molded article.

Mohanty or Ohme do not disclose flame retardancy-imparting component.

Gilman teaches highly effective fire retardant based on potassium carbonate on porous silica gel support for wide variety of polymers, including cellulose (see Abstract). He also discloses that effective fire retardants on silicon based materials (see page 261). The performance of the above fire retardants is comparable with regular retardancy-imparting components. However, silica gel and potassium carbonate are significantly less expensive compare to regular flame retardants. Therefore, it would have been obvious to a person of ordinary skills in the art to use silica-potassium

Art Unit: 1796

carbonate fire retardants instead of regular additives, providing more economical process and composition.

Fumitomo teaches resin composition containing silica-gel and flame retardant, which is halogen-based component on antimonous oxide support (see Abstract). Fumitomo teaches that other inorganic substrates, such as aluminum hydroxide, magnesium hydroxide, boric acid and zinc borate can be used (see line 0009). The above inorganic materials are known as flame retardants. Their use reduces total amount (both organic and inorganic) of flame retardants needed, which provides more economical process. In addition, the above retardants have an environmental benefit, since it reduces the amount of harmful gases formed by halogenated compound.

Therefore, it would have been obvious to a person of ordinary skills in the art to use Fumitomo's organic flame retardants on inorganic support in Mohanty or Ohme's compositions, since it providing more economical process and composition and reduces the amount of harmful gases formed by organic retardant.

Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mohanty or Ohme in combination with Fumitomo or Gilman and Dorfman et al (US 3983185) herein Dorfman (necessitated by Amendment)...

Art Unit: 1796

Mohanty or Ohme disclose a resin composition comprising polylactic acid or its copolymer or composition, containing polybutylene succinate and a flame retardancy-imparting component. (see discussion above).

Gilman or Fumitomo teach flame retardant on porous inorganic support.

Mohanty or Ohme do not disclose the flame retardancy-imparting component is acetylacetonatoiron or acetylacetonatocopper.

Dorfman disclose a composition comprising a polyester and flame retardants, which are acetylacetonatoiron (see Column 9, line 65) or acetylacetonatocopper (see Column 10, line 35).

Dorfman teaches that the above flame retardants have an advantage over regular ones (i.e. phosphorus-based), since they retain translucency of the polymer composition (see Column 9, line 5).

Therefore, it would have been obvious to a person of ordinary skills in the art to use acetylacetonatoiron or acetylacetonatocopper instead of traditional flame retardants in the cases, where retaining translucency of an article is important.

In addition, it is a prima facie obvious to add a known ingredient for its known function (see *In re Linder* 173 USPQ 356).

Response to Arguments

Applicant's arguments filed on 2/26/2008 have been fully considered but they are not persuasive.

Applicant argues that the cited prior art does not disclose (expressly or inherently) that "said flame retardancy-imparting component is supported on an inorganic porous material. (Note that the above limitation is introduced with the Amendment of Claim 1).

The newly cited references of Gilman and Fumitomo teach the above limitation (see discussion above).

In addition, since Silica-gel has flame impairing properties itself (see Gilman), the results of the Examples 1-8, where Silica gel used in combination of regular flame retardant are not unexpected ones.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 1796

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY LISTVOYB whose telephone number is (571)272-6105. The examiner can normally be reached on 10am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/572,857
Art Unit: 1796

Page 8

/Rabon Sargent/
Primary Examiner, Art Unit 1796

GL